

Members

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Sen. Brent Waltz
Sen. James Arnold
Sen. Greg Taylor
Rep. Vanessa Summers
Rep. John Day
Rep. David Frizzell
Rep. David Yarde
Gregory A. DeVries
Judge Marianne Vorhees
Robert Bishop
Bruce Pennamped



CHILD CUSTODY AND SUPPORT ADVISORY COMMITTEE

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Authority: IC 33-24-11-1

MEETING MINUTES¹

Meeting Date: October 2, 2009
Meeting Time: 9:30 A.M.
Meeting Place: State House, 200 W. Washington St., Room 233
Meeting City: Indianapolis, Indiana
Meeting Number: 2

Members Present: Sen. Brent Steele, Chairperson; Rep. David Frizzell; Rep. David Yarde; Gregory A. DeVries; Judge Marianne Vorhees; Robert Bishop.

Members Absent: Sen. Brent Waltz; Sen. James Arnold; Sen. Greg Taylor; Rep. Vanessa Summers; Rep. John Day; Bruce Pennamped.

Senator Brent Steele, Chairperson, called the second meeting of the Indiana Child Custody and Support Advisory Committee (Committee) to order at 9:45 A.M. The Committee members received a copy of the Indiana Supreme Court's Order Amending Indiana Child Support Rules and Guidelines (Order).²

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

² Exhibit 1

Amendments to the Indiana Child Support Rules and Guidelines

Mr. Jeff Bercovitz, Director, Juvenile and Family Law, Indiana Judicial Center, provided an outline³ of the revisions to the Indiana Child Support Rules and Guidelines (Guidelines). He stated that the Domestic Relations Committee is required to conduct a review of the Guidelines every four years and that the new amendments to the Guidelines take effect on January 1, 2010. He explained that the Domestic Relations Committee hired an expert, Dr. Jane Vemohr from the Center for Policy Research, to assist the Domestic Relations Committee in changes to the Guidelines by reviewing economic data and looking at other states' guidelines. He indicated that the Domestic Relations Committee held public hearings at which it took and considered comments from parents, case workers, attorneys, judges, and others. He provided the website address at which the Order can be accessed, which is <http://www.in.gov/judiciary/orders/rule-amendments/index.html>.

Mr. Bercovitz explained that the amendments to the Guidelines include the following:

- Changes regarding the parenting time credit. The custodial parent may be ordered to pay child support to a noncustodial parent if the application of the parenting time credit would require that the custodial parent do so.
- An explanation of "controlled expenses."
- Changes regarding the treatment of Social Security benefits. Social Security disability benefits paid for the benefit of the child must be included in the disabled parent's gross income. In addition, Social Security disability benefits of a noncustodial disabled parent that are received for the benefit of the child are applied as a credit to satisfy the noncustodial parent's child support obligation. The Indiana Supreme Court decision concerning this issue is included in the Guideline commentary regarding Social Security disability benefits.
- Changes regarding low income child support orders. The amendments establish lower amounts of child support for parents with low incomes.
- Changes regarding high income child support orders. The amendments extend the schedule for weekly support payments to \$10,000 combined weekly adjusted gross income.
- Changes regarding minimum child support orders. The amendments provide for minimum child support when a parent has an extremely low income.
- Changes regarding potential income. Judges have more discretion in determining potential income.
- Income of incarcerated parents. When a parent is incarcerated and has no assets or other source of income, potential income should not be attributed to the parent. Mr. Bercovitz referenced the Indiana Supreme Court decision in the case of Lambert v. Lambert regarding this change.
- A new health insurance premium worksheet.

³ Exhibit 2

- Reorganization of the Guidelines.
- A subsequent child multiplier, regardless of whether the child lives with the parent.
- Clarification in the area of extracurricular activities.
- Additional commentary concerning tax exemption.
- Rounding off child support amounts to the nearest dollar.

Mr. Bercovitz indicated that Ms. Cynthia Longest, Deputy Director of the Child Support Bureau, Department of Child Services, would explain the new health insurance premium worksheet. Ms. Longest said that federal regulations provided guidance on changes to the following three issues regarding private health insurance in child support cases:

(1) Who should provide the health insurance. The old guidelines looked at whether the noncustodial parent could provide health insurance. The new guidelines look at whether the custodial parent or the noncustodial parent can provide health insurance.

(2) The definition of "reasonable." The Domestic Relations Committee followed the federal guidelines by adopting the definition of "reasonable" to include 5% of weekly gross income.

(3) The definition of "accessibility." There are insurance companies that provide insurance coverage for certain areas of the state and the child may live in a separate part of the state in which insurance coverage under that particular insurance company or plan is not available.

She explained that the health insurance premium worksheet includes: (1) whether the insurance is reasonable, (2) whether the insurance is available, and (3) calculations of what it would cost for each person to provide insurance coverage for a child. She indicated that the worksheet will help judges determine whether both parents should provide health insurance coverage, one parent should provide health insurance coverage, or neither parent should provide health insurance coverage for a child.

In response to a question from Representative David Frizzell, a Committee member, Mr. Bercovitz said that he did not remember the number one issue for custodial parents and for noncustodial parents. He stated that the Domestic Relations Committee moved from topic to topic and did not separate the issues into concerns from custodial parents and concerns from noncustodial parents. He noted that between 10 and 15 people provided comments at the public meeting but that the Domestic Relations Committee received an additional 30 to 40 written comments. He said that the Domestic Relations Committee received additional comments after the amendments to the Guidelines were posted.

_____ Mr. Gregory DeVries, a Committee member, expressed concern about the amount of work and research that a parent may have to do to find out where the parent could get health insurance at the lowest cost. Ms. Longest indicated that the Domestic Relations Committee spent a lot of time discussing whether to include requiring this information on the health insurance premium worksheet. She also noted that the worksheet is not mandated if the parties agree to health insurance coverage for a child.

In response to a question from Senator Steele about whether it is sufficient that a

parent research one insurance company for insurance, Mr. Bercovitz indicated that the Court of Appeals will probably provide guidance as to whether that is sufficient. He stated that in most cases the parties agree, but the amount of research that is sufficient in looking at insurance coverage could be an issue.

_____ Mr. Stuart Showalter, a representative of Indiana Custodial Rights Advocates, indicated that it makes no sense to charge a parent to pay child support when the parent qualifies for a court appointed attorney and is incarcerated. He discussed programs established in other states that help parents find jobs and other means to pay child support. He gave other examples of how a parent could help pay child support through the parent's job.

Mr. Donald Beatty discussed a program that would create a credit for parents who participate in the program as an alternative to incarcerating the parents for failing to pay child support.

Execution of paternity affidavits

_____ Mr. Chris Worden, a family law attorney, provided to the Committee members an article⁴ that he had written entitled "Rethinking the Paternity Affidavit." He asked Senator Steele if he could provide testimony at the Committee meeting on October 16, 2009, in order to give the Committee members an opportunity to review the article before he provided testimony. Senator Steele agreed to Mr. Worden's request and noted that Mr. Worden did a good job on the article.

In following up on a discussion that occurred at the September 25, 2009, Committee meeting, Judge Marianne Vorhees, a Committee member, noted that the paternity affidavit statute indicates that the mother has sole legal custody of the child until a court makes another determination. She and Mr. Worden agreed that the statute does not create an order of custody. Mr. Worden indicated that any rights or responsibilities resulting in the execution of a paternity affidavit are not enforceable until the parties go to court.

_____ Senator Steele asked whether a genetic test should be performed in every case where a paternity affidavit has been executed. He indicated that he had heard recently of a genetic test for which the fee was \$285.

Senator Steele adjourned the meeting at 10:35 A.M.

⁴ Exhibit 3